

The Office Action considers that the inventions of Groups I and II are distinct from each other because the product as claimed can be made by a materially different process such as forming the oxide layer by deposition rather than by oxidizing an existing semiconductor layer, as stated at page 2 of the Office Action.

In light of the restriction requirement, Applicants provisionally elect, with traverse, to proceed with the examination of the claims of Group I, claims 1-7. Applicants respectfully traverse this restriction requirement for the following reasons.

Applicants respectfully submit that the method as claimed in claim 8 is an obvious process of manufacturing a light receiving element as claimed in claim 1, and the method of claim 8 cannot be used to make any other and different products. Further, Applicants respectfully submit that the light receiving element of claim 1 cannot be manufactured by another and materially different process. Moreover, Applicants respectfully submit a light receiving element of claim 2 and a method of claim 9 consist of a singular invention.

In addition, it is respectfully submitted that the search and examination of the entire application could be performed without serious burden. M.P.E.P. § 803 clearly states that “if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes two distinct or independent inventions.” It is respectfully submitted that this policy should apply in the preset application in order to avoid unnecessary delay and expense to the Applicants and duplicative examination by the United States Patent and Trademark Office.

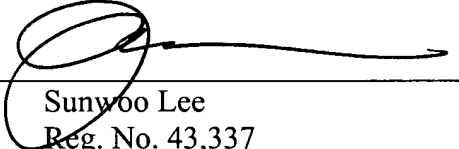
The Examiner is respectfully requested to reconsider and withdraw the election of species requirement and to examine all claims in this application.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of times fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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